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5 UNITED STATES BANKRUPTCY COURT
6 NORTHERN DISTRICT OF CALIFORNIA
7 SAN FRANCISCO DIVISION
8

9 In re

10 Mariya Ruchka

11 Debtor.
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Case No. **18-30002**

Chapter 11

**DEBTOR'S DECLARATION IN SUPPORT
OF DEBTOR'S MOTION TO DISMISS
CASE**

Hearing:

Date: September 21, 2018
Time: 10:00 a.m.

Judge: The Honorable Dennis Montali

Place: 450 Golden Gate Avenue, 16th Floor,
Courtroom 17, San Francisco, CA 94102

1 I, Mariya Ruchka, declare as follows:

- 2
- 3 1. I am the Debtor and Debtor-in-Possession in the above-captioned case. . I am
- 4 competent to testify in this matter and I declare as follows:
- 5 2. I am engaged in efforts to refinance each of the properties of the bankruptcy estate
- 6 that is presently in default with hard money loans through broker CAN Equity
- 7 Group, Inc., including 20 Pine Terrace, Belvedere, Tiburon, CA, 164-168 28th St.,
- 8 San Francisco, CA, and 1619 Laguna St., San Francisco, CA. Each of the
- 9 properties has had a recent appraisal, and, with the exception of the Belvedere
- 10 property, the value of each property is significantly greater than all mortgages and
- 11 liens of record.
- 12
- 13 3. A true and correct copy of the Refinance Statement, dated August 30, 2018, issued
- 14 by Fidelity National Title Company, with regard to 20 Pine Terrace, Belvedere,
- 15 Tiburon, CA, is marked Exhibit A, attached hereto and incorporated herein by
- 16 reference. Exhibit A shows lien payoffs in the amount of \$1,689,504, and a pre-
- 17 approved loan amount of \$1,199,000 from Superior Loan Servicing, loan no.
- 18 RMF4021995. The property appraised for \$1,475,000 on August 25, 2018. A true
- 19 and correct copy of said appraisal is marked Exhibit B, attached hereto, and
- 20 incorporated herein by reference. I am presently initiating negotiations with the
- 21 first (\$1,530,480) and second (\$55,100) mortgagees of the subject property for short
- 22 payoffs, with subordinated deeds of trust for any balances remaining. I am also
- 23 seeking other hard money lenders for more substantial loan commitments.
- 24
- 25 4. A true and correct copy of the Refinance Statement, dated August 30, 2018, issued
- 26 by Fidelity National Title Company, with regard to 164-168 28th St., San Francisco,
- 27 CA, is marked Exhibit C, attached hereto and incorporated herein by reference.
- 28 Exhibit C shows a pre-approved loan amount of \$1,699,000, from Superior Loan

1 Servicing, loan no. RMF4021984. The property was appraised on July 18, 2018,
2 for \$2,450,000. A true and correct copy of said appraisal is marked Exhibit D,
3 attached hereto and incorporated herein by reference. Exhibit C shows a balance
4 due from Borrower of \$432,114 to pay off the sole mortgagee and all other
5 creditors/claimants.

6
7 5. Of the apparent shortage for full refinancing payoffs of all creditors on the 164-168
8 28th Ave. property, \$105,000 of that amount is reflected in the mechanics lien of
9 Oleg Morozov, dba Remus Contractors, a true and correct copy of which is attached
10 hereto as Exhibit E, and incorporated herein by reference. This is an unlawful
11 mechanic's lien recorded almost 16 months after services by the contractor were
12 completed and paid for. The lien, recorded on June 8, 2018, states on its face that it
13 includes "interest at the rate of 10% per annum from 2/17/2017 (date when balance
14 became due)". The lien references 14 invoices, none of which were received by me
15 until the last week of June, 2018, when I first discovered the lien in a preliminary
16 title report for the property and demanded copies from the claimant. The lien
17 reflects proof of service on me by mail by Mr. Morozov on May 21, 2018. I
18 received no such notice. I will file an amended creditor's schedule reflecting this
19 wholly disputed debt forthwith. I have demanded that Mr. Morozov remove the
20 lien, and will undertaking prompt legal action to have it removed in the Superior
21 Court under Civil Code Section 8480 et seq., if Mr. Morozov does not promptly do
22 so voluntarily.

23
24 6. It is also important to note that this property is the subject of a lawsuit for alleged
25 breach of implied warranty of habitability (San Francisco Superior Court, case no.
26 CGC-18-565396). These tenants have each filed proofs of claim in this bankruptcy
27 case in the amount of \$200,000. The defense of this action has been picked up by
28 my insurer, Farmer's, and its attorney, Roger Yuen (SB# 221243) of Hartsuyker,

1 Stratman & Williams-Abrego, 505 14th St., Suite 400, Oakland, CA 94612, who
2 filed an Answer in this matter on June 19, 2018. A true and correct copy of said
3 Answer is marked Exhibit F, attached hereto, and incorporated herein by reference.
4 I am informed and believe that the insurance policy coverage/limits for the property
5 are \$2,000,000. A building inspector filed a report listing actual defects, which I
6 have systematically addressed and corrected since the time of the lawsuit. I am
7 informed and believe that he found no evidence of mold, which was the primary
8 complaint of the tenant-litigants.

9
10 7. A true and correct copy of the Estimated Borrower's Statement, dated September 4,
11 2018, issued by Fidelity National Title Company, with regard to 1619 Laguna, San
12 Francisco, CA, is marked Exhibit G, attached hereto and incorporated herein by
13 reference. Exhibit G shows a pre-approved loan amount of \$1,724,000. It does not
14 contain payoff information on the sole mortgagee on the property, Evergreen
15 Advantage, LLC ("Evergreen"). I am informed and believe that a Request for
16 Payoff Demand was emailed to Evergreen on September 6, 2018 by Fidelity
17 National Title Company. A true and correct copy of said payoff demand is attached
18 hereto as Exhibit H. The Proof of Claim of Evergreen in this case (Claim 2-1, filed
19 January 30, 2018), reflects a claim amount of \$1,902,804. There are additional
20 sums due for property taxes. Exhibit G reflects a balance due to borrower,
21 exclusive of the payoff of the Evergreen mortgage and taxes, of \$1,633,952. The
22 subject property was appraised as of August 17, 2018, for \$2,450,000. A true and
23 correct copy of said appraisal is marked Exhibit I, attached hereto and incorporated
24 herein by reference. I estimate that funding for full payoffs on this proposed loan
25 will be approximately \$350,000 short.

26
27 8. As with the other properties referenced above, I am commencing negotiations with
28 Evergreen for a short payoff at closing of the proposed refinance, with the shortage

1 covered by a deed of trust subordinated to the new lender. This will allow me the
2 time to market the properties for their fair market values and preserve the assets of
3 the bankruptcy estate.

4
5 9. If these negotiations are unsuccessful and increased refinance funding is not
6 available to cover shortages, I will sell the property(ies).

7
8 10. Besides my current car lender, with whom I am current, and the Internal Revenue
9 Service's claim of \$77,399, the only other creditor's claim in this case is from
10 Midland Credit Management, Inc., as agent for Asset Acceptance, LLC, in the
11 amount of \$18,662 (Claim #4). This claim was amended on September 7, 2018, to
12 properly reflect an amount remaining due of \$1,580.50. A true and correct copy of
13 the Amended Proof of Claim filed on this date is marked Exhibit J, attached hereto
14 and incorporated herein by reference.

15
16 11. I don't believe conversion of this Chapter 11 case to a case under Chapter 7 would
17 benefit the creditors of the estate. It would only create delays and unnecessary
18 administrative expenses, without enhancing the prospect for recoveries to the
19 creditors.

20
21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct to the best of my knowledge.

23 Executed this 6th day of September, 2018, in San Francisco, California

24
25 /s/ Mariya Ruchka

26 MARIYA RUCHKA